

# HOUSE . . . . . No. 4088

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Text of an amendment recommended by the committee on Ways and Means to the Senate Bill relative to veterans' access, livelihood, opportunity, and resources (Senate, No. 2254). May 14, 2012.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve  
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By striking out all after the enacting clause and inserting in place thereof the following:—

1 SECTION 1. Section 61 of chapter 7 of the General Laws, as appearing in the 2010 Official  
2 Edition, is hereby amended by striking out, in line 30, the word “bank” and inserting in place  
3 thereof the words:- lending institutions.

4  
5 SECTION 2. Said section 61 of said chapter 7 of the General Laws, as so appearing, is hereby  
6 further amended by striking out the words “minority and women”, in lines 32 and 33, 37 and 64,  
7 and inserting in place thereof, in each instance, the following words:- minority, women and  
8 veterans.

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10 SECTION 3. Said section 61 of said chapter 7, as so appearing, is hereby further amended by  
11 striking out subsection (h) and inserting in place thereof the following subsection:-

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13 (h) SDO shall seek to encourage voluntary assistance programs by which nonminority, non-

women and non-veteran business employees are loaned to minority, women and veteran businesses or by which minority, women and veteran business persons are taken into viable business ventures to acquire training and experience in managing business affairs.

SECTION 4. Said section 61 of said chapter 7, as so appearing, is hereby further amended by inserting after subsection (i) the following subsection:-

(i½) SDO shall promulgate regulations to encourage and facilitate participation on public projects for service-disabled veteran-owned small businesses interested in and capable of providing construction and design services on public construction and design projects. For the purposes of this subsection, “service-disabled veteran-owned small business” shall mean a business that is verified by the federal government’s Department of Veterans Affairs pursuant to the Veterans Benefits, Health Care, and Information Technology Act of 2006, Pub. L. 109-461, and determined to be a service-disabled veteran-owned small business concern in accordance with 38 CFR Part 74 and Pub. L. 111-275.

SECTION 5. Section 35CC of chapter 10 of the General Laws, as so appearing, is hereby amended by inserting after the word “families”, in line 6, the following words:- , including immediate family members of certain active duty members of the armed forces who were killed in action, also known as Gold Star Families.

SECTION 6. Chapter 15A of the General Laws is hereby amended by adding the following section:-

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38 Section 42. (a) The council shall develop and adopt a written policy requiring each public  
39 institution of higher education to develop a set of policies and procedures governing the  
40 evaluation of a student's military occupation, military training, coursework and experience, to  
41 determine whether academic credit shall be awarded by the institution for the evaluated  
42 occupation, experience, training and coursework. The council's policy may require that the  
43 occupation or occupations, training, experience or courses meet the standards of the American  
44 Council on Education or equivalent standards for awarding academic credit. The council may  
45 also develop and adopt a written policy requiring each public institution of higher education to  
46 develop a set of policies and procedures to standardize credit-by-exam equivalencies for exams  
47 funded through the department of defense. The educational credit shall be awarded based upon  
48 each institution's admissions standards and shall be consistent with the mission of the  
49 commonwealth's system of public higher education, as defined by the council under section 1.  
50 Each public institution of higher education shall designate a single point of contact for a student  
51 who is enrolled in such an institution and who is also a veteran, as defined in clause Forty-third  
52 of section 7 of chapter 4 to conduct such an evaluation and determination.

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54 (b) The council shall consult with the chief executive officers of each public institution of higher  
55 education in implementing the policy set forth in subsection (a) and the policy adopted by the  
56 council shall, to the greatest extent possible, provide for consistent application by all the  
57 commonwealth's public institutions of higher education and promote accurate and complete  
58 academic counseling.

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SECTION 7. The General Laws are hereby amended by inserting after chapter 15D the following chapter:-

Chapter 15E

Interstate Compact on Educational Opportunity for Military Children

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Active duty”, full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. sections 1209 and 1211.

“Children of military families”, a school-aged child, enrolled in kindergarten through grade 12, in the household of an active duty member.

"Compact commissioner", the voting representative of each compacting state appointed pursuant to section 7 of this compact.

“Deployment”, the period 1 month prior to the service members’ departure from the members’ home station on military orders to 6 months after returning to the members’ home station.

“Education records”, those official records, files and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

“Extracurricular activities”, a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities.

“Interstate commission on educational opportunity for military children” or “interstate commission”, the commission that is created under section 8 of this compact.

“Local education agency”, a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through grade 12 public educational institutions.

“Member state”, a state that has enacted this compact.

“Military installation”, a base, camp, post, station, yard, center, homeport facility for any ship or other activity under the jurisdiction of the Department of Defense, including any leased facility,

which is located within any of the several states, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects or flood control projects.

“Non-member state”, a state that has not enacted this compact.

“Receiving state”, the state to which a child of a military family is sent, brought or caused to be sent or brought.

“Rule”, a written statement by the interstate commission promulgated under section 11 of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact or an organizational, procedural or practice requirement of the interstate commission and has the force and effect of statutory law in a member state, and includes the amendment, repeal or suspension of an existing rule.

“Sending state”, the state from which a child of a military family is sent, brought or caused to be sent or brought.

“State”, a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory.

“Student”, the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through grade 12.

“Transition”, the formal and physical process of transferring from school to school or the period of time in which a student moves from one school in the sending state to another school in the receiving state.

“Uniformed services”, the Army, Navy, Air Force, Marine Corps, Coast Guard, including the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

“Veteran”, a person who served in the uniformed services and who was discharged or released from service under conditions other than dishonorable.

Section 2. (a) Except as otherwise provided in subsection (b), this compact shall apply to the children of:

(1) active duty members of the uniformed services;

(2) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and

(3) members of the uniformed services who die on active duty or as a result of injuries sustained

on active duty for a period of 1 year after death.

(b) This interstate compact shall only apply to local education agencies.

(c) This compact shall not apply to the children of:

(1) inactive members of the national guard and military reserves;

(2) members of the uniformed services now retired, except as provided in subsection (a);

(3) veterans of the uniformed services, except as provided in subsection (a); and

(4) other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Section 3. (a) If official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial education records containing uniform information as determined by the interstate commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records, pending validation by the official records, as soon as possible.



(b) Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official education records to the school in the receiving state within 10 days or within the time as is reasonably determined under the rules promulgated by the interstate commission.

(c) Compacting states shall give 30 days from the date of enrollment or within the time as is reasonably determined under the rules promulgated by the interstate commission for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations shall be obtained within 30 days or within the time as is reasonably determined under the rules promulgated by the interstate commission.

(d) Students shall be allowed to continue enrollment at the grade level in the receiving state that is equal with the grade level from the local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state at the level validated by an accredited school in the sending state.

Section 4. (a) When a student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the

198 sending state if the courses are offered and space is available. Course placement shall include,  
199 but not be limited to, honors, international baccalaureate, advanced placement, vocational,  
200 technical and career pathways courses. Continuing the student's academic program from the  
201 previous school and promoting placement in academically and career challenging courses should  
202 be paramount when considering placement. This shall not preclude the school in the receiving  
203 state from performing subsequent evaluations to ensure appropriate placement and continued  
204 enrollment of the student in the courses.

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206 (b) The receiving state school shall initially honor placement of the student in educational  
207 programs based on current educational assessments conducted at the school in the sending state  
208 or participation or placement in like programs in the sending state. Such programs shall include,  
209 but not be limited to: (i) gifted and talented programs; and (ii) English as a second language  
210 programs. This shall not preclude the school in the receiving state from performing subsequent  
211 evaluations to ensure appropriate placement of the student.

212  
213 (c) In compliance with the federal requirements of the Individuals with Disabilities Education  
214 Act (IDEA), 20 U.S.C.A. section 1400 et seq, the receiving state shall initially provide  
215 comparable services to a student with disabilities based on: (i) the student's current  
216 individualized education program; (ii) the requirements of section 504 of the Rehabilitation Act,  
217 29 U.S.C.A. section 794; and (iii) title II of the Americans with Disabilities Act, 42 U.S.C.A.  
218 sections 12131-12165. The receiving state shall make reasonable accommodations and  
219 modifications to address the needs of incoming students with disabilities, subject to an existing  
220 504 or title II plan, to provide the student with equal access to education. This shall not preclude

the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

(d) Local education agency administrative officials shall have flexibility in waiving course or program prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

(e) A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from or immediately returned from deployment to a combat zone or combat support posting, may be granted additional excused absences at the discretion of the local education agency superintendent to visit with that parent or legal guardian on leave or preparing for or returning from deployment.

Section 5. (a) The following shall be required to be eligible for enrollment in the receiving state's school:

(1) special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient to enroll or take any other action requiring parental participation and consent under this compact;

(2) a local education agency shall not charge local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent; and

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245 (3) a transitioning military child placed in the care of a non-custodial parent or other person  
246 standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may  
247 continue to attend the school in which the child was enrolled while residing with the custodial  
248 parent.

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250 (b) State and local education agencies shall facilitate the opportunity for transitioning military  
251 children's inclusion in extracurricular activities, regardless of application deadlines, to the extent  
252 the children are otherwise qualified.

253

254 Section 6.

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256 (a) To facilitate the on-time graduation of children of military families, local education agency  
257 administrative officials shall waive specific courses required for graduation if similar course  
258 work has been satisfactorily completed in another local education agency or shall provide  
259 reasonable justification for denial. Should a waiver not be granted to a student who would  
260 otherwise qualify to graduate from the sending school, the local education agency shall provide  
261 an alternative means of acquiring required coursework so that graduation may occur on time.

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263 (b) To facilitate the on-time graduation of children of military families, receiving states may  
264 accept exit or end-of-course exams required for graduation from the sending state or national  
265 norm-referenced achievement tests or alternative testing, in lieu of testing requirements for  
266 graduation in the receiving state; require the student to take scheduled exit test in the receiving

state, if the student is able to take the tests prior to the end of grade 12; or accept evidence or information from the sending or receiving district that demonstrates that the student has met the receiving state's graduation standard, either through a transcript of courses taken and grades received from the sending and or receiving district; a portfolio of work samples for the student that addresses the required high school standards; standardized norm-referenced test results in the subject required by the receiving state for graduation; or other relevant information.

(c) To facilitate the on-time graduation of children of military families, should a military student transferring at the beginning or during grade 12 be ineligible to graduate from the receiving local education agency after all alternatives in subsection (b) have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency if the student meets the graduation requirements of the sending local education agency. In the event that either the transferring or receiving state is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student under subsections (a) and (b).

Section 7. (a) Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in and compliance with this compact and interstate commission activities. While each member state may determine the membership of its own state council, the membership shall include at least: (i) the state secretary of education; (ii) a superintendent of a school district with a high concentration of military children; (iii) a representative from a military installation; (iv) 1

representative from the legislature; (v) 1 representative from the executive branch; and (vi) other offices and stakeholder groups that the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

(b) The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

(c) The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the governor or as otherwise determined by each member state.

(d) The compact commissioner and the military family education liaison designated under this compact shall be ex-officio members of the state council, unless either is already a full voting member of the state council.

Section 8. The compacting states hereby create the interstate commission on educational opportunity for military children. The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

(a) be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth in this compact and additional powers as may be

conferred upon it by a subsequent concurrent action of the respective legislatures of the member states under the terms of this compact;

(b) consist of 1 interstate commission voting representative from each member state who shall be that state's compact commissioner;

(c) entitle each member state represented at a meeting of the interstate commission to 1 vote;

(d) require a majority of the total member states to constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the interstate commission;

(e) prohibit the delegation of a vote from 1 member state to another member state, provided, that in the event the compact commissioner is unable to attend a meeting of the interstate commission, the governor or state council may delegate voting authority to another person from their state for a specified meeting;

(f) allow the by-laws to provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication;

(g) consist of ex-officio, non-voting representatives who are members of interested organizations, as defined in the by-laws, which may include, but shall not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission

of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members;

(h) meet at least once each calendar year, provided, that the chairperson may call additional meetings and upon the request of a simple majority of the member states, shall call additional meetings;

(i) establish an executive committee, whose members shall include the officers of the interstate commission and such other members of the interstate commission as determined by the by-laws; provided, that members of the executive committee shall serve a 1-year term and shall be entitled to 1 vote each; provided further, that the executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking during periods when the interstate commission is not in session; provided further, that the executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the compact, its by-laws and rules and other such duties as deemed necessary; and provided further that the United States Department of Defense shall serve as an ex-officio, non-voting member of the executive committee;

(j) establish by-laws and rules that provide for conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying; provided, that the interstate commission may exempt from disclosure the information or the official records that would adversely affect personal privacy rights or proprietary interests;



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360 (k) give public notice of all meetings and all meetings shall be open to the public, except as set  
361 forth in the rules or as otherwise provided in the compact; provided, that the interstate  
362 commission and its committees may close a meeting, or a portion of a meeting, when the  
363 commission or committee determines by a two-thirds vote that an open meeting would likely:

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365 (1) relate solely to the interstate commission's internal personnel practices and procedures;

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367 (2) disclose matters specifically exempted from disclosure by federal and state statute;

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369 (3) disclose trade secrets or commercial or financial information which is privileged or

370 confidential;

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372 (4) involve accusing a person of a crime or formally censuring a person;

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374 (5) disclose information of a personal nature where disclosure would constitute an unwarranted  
375 invasion of personal privacy;

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377 (6) disclose investigative records compiled for law enforcement purposes; or

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379 (7) relate specifically to the interstate commission's participation in a civil action or other legal

380 proceeding;

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(l) cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting or portion of a meeting which is closed under this clause; provided, that the interstate commission shall keep minutes which shall clearly describe all matters discussed in a meeting and shall provide an accurate summary of actions taken and the reasons for those actions, including a description of the views expressed and the record of a roll call vote; provided further, that all documents considered in connection with an action shall be identified in the minutes; and provided further, that all minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission;

(m) collect standardized data concerning the educational transition of the children of military families under this compact, as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements; provided, that such methods of data collection, exchange and reporting shall, as much as reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the by-laws and rules;

(n) create a process that permits military officials, education officials and parents to inform the interstate commission of alleged violations of the compact, its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency; provided, that this section shall not be construed to create a private right of action against the interstate commission or any member state.

Section 9. The interstate commission may:

(a) provide for dispute resolution among member states;

(b) issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its by-laws, rules and actions;

(c) enforce compliance with the compact provisions and the rules promulgated by the interstate commission and in the by-laws through the use of all necessary and proper means, including, but not limited to, the use of the judicial process;

(d) establish and maintain offices, which shall be located within 1 or more of the member states;

(e) purchase and maintain insurance and bonds;

(f) borrow, accept, hire or contract for services or personnel;

(g) establish and appoint committees including, but not limited to, an executive committee as required by paragraph 9 of subsection (a) of section 8;

(h) elect or appoint officers, attorneys, employees, agents or consultants and fix the compensation, define the duties and determine the qualifications for those positions;

428 (i) establish the interstate commission's personnel, policies and programs relating to conflicts of  
429 interest, rates of compensation and qualifications of personnel;  
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431 (j) accept any and all donations and grants of money, equipment, supplies, materials and services  
432 and to receive, utilize and dispose of it;  
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434 (k) lease, purchase, own, hold, improve, use or accept contributions of or donations of any  
435 property, real, personal or mixed;  
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437 (l) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any  
438 property, real, personal or mixed;  
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440 (m) establish a budget and make expenditures;  
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442 (n) adopt a seal and by-laws governing the management and operation of the interstate  
443 commission;  
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445 (o) report annually to the legislatures, governors, judiciary and state councils of the member  
446 states concerning the activities of the interstate commission during the preceding year and the  
447 reports shall include recommendations that may have been adopted by the interstate commission;  
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449 (p) coordinate education, training and public awareness regarding this compact and its  
450 implementation and operation for officials and parents or guardians impacted by this compact;

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452 (q) establish uniform standards for the reporting, collecting and exchanging of data;

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454 (r) maintain corporate books and records in accordance with the by-laws;

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456 (s) perform the functions necessary or appropriate to achieve the purposes of this compact; and

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458 (t) provide for the uniform collection and sharing of information between and among member

459 states, schools and military families under this compact.

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461 Section 10. (a) The interstate commission shall, by a majority vote of the members present and

462 voting and within 12 months after the first interstate commission meeting, adopt by-laws to

463 govern the conduct that is necessary or appropriate to carry out the purposes of this compact,

464 which shall include, but not be limited to:

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466 (1) establishing the fiscal year of the interstate commission;

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468 (2) establishing an executive committee and other committees as may be necessary;

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470 (3) providing for the establishment of committees and for governing any general or specific

471 delegation of authority or function of the interstate commission;

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473 (4) providing reasonable procedures for calling and conducting meetings of the interstate

commission and ensuring reasonable notice of each meeting;

(5) establishing the titles and responsibilities of the officers and staff of the interstate commission;

(6) providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of this compact after the payment and reserving of all of its debts and obligations; and

(7) providing start-up rules for initial administration of the compact.

(b) The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson and a treasurer, each of whom shall have the authority and duties specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission. The elected officers shall serve without compensation or remuneration from the interstate commission; provided, that subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

(c) The executive committee shall have such authority and duties as may be set forth in the by-laws, including, but not limited to: (i) managing the affairs of the interstate commission in a manner consistent with the by-laws and purposes of the interstate commission; (ii) overseeing an

organizational structure within the interstate commission and establishing appropriate procedures for the interstate commission to provide for the creation of rules, operating procedures and administrative and technical support functions; and (iii) planning, implementing and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the interstate commission.

(d) The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for a period, during which the terms, conditions and compensation shall be set by the interstate commission. The executive director shall serve as secretary to the interstate commission, but shall not be a member of the interstate commission. The executive director shall hire and supervise other personnel when authorized by the interstate commission.

(e) The interstate commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property, personal injury or other civil liability caused by, arising out of or relating to an actual or alleged act, error or omission that occurred, or that the person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities; provided, that the interstate commission's executive director and employees shall not be protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(f) The liability of the interstate commission's executive director, employees or representatives for acts, errors or omissions that occur while acting within the scope of employment and within

the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect the person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(g) The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission, shall defend interstate commission representatives in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities; provided, however, that the actual or alleged act error or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(h) To the extent that representatives and employees of the interstate commission are not covered by the state involved, the member state or the interstate commission, that representative or employee shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities; provided, however, that



the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

Section 11. (a) The interstate commission shall promulgate reasonable rules in order to effectively achieve the purposes of this compact. In the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope or the powers granted in this act, then that action by the interstate commission shall be invalid and have no force or effect.

(b) Rules shall be made pursuant to a rulemaking process that shall substantially, or as much as possible, conform with the Model State Administrative Procedure Act of 1981, uniform laws annotated, vol. 15, p.1 (2000) as amended.

(c) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

(d) If a majority of the legislatures of the compacting states reject a rule by enactment of a statute or resolution, then such rule shall have no further force and effect in any compacting state.

Section 12. (a) All courts shall take judicial notice of the compact and the rules in any judicial or

administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission.

(b) The interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact or promulgated rules.

(c) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, the by-laws or the promulgated rules, the interstate commission shall:

(1) provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the interstate commission; provided, that the interstate commission shall specify the conditions by which the defaulting state must cure its default;

(2) provide remedial training and specific technical assistance regarding the default; and

(3) terminate a defaulting state from the compact if the defaulting state fails to cure the default and upon an affirmative vote of a majority of the member states, all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination; provided that a cure of the default shall not relieve the offending state of obligations or liabilities

incurred during the period of the default.

(d) Suspension or termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the governor and the majority and minority leaders of the defaulting state's legislature and each of the member states.

(e) The state which has been suspended or terminated shall be responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations that require performance beyond the effective date of suspension or termination.

(f) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(g) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(h) The interstate commission, in the reasonable exercise of its discretion, shall enforce this compact.

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613 (i) The remedies in this section shall not be the exclusive remedies of the interstate commission.

614 The interstate commission may avail itself of any other remedies available under state law or the

615 regulation of a profession.

616

617 Section 13. (a) The interstate commission shall pay, or provide for the payment of, the

618 reasonable expenses of its establishment, organization and ongoing activities.

619

620 (b) The interstate commission may levy on and collect an annual assessment from each member

621 state to cover the cost of the operations and activities of the interstate commission and its staff

622 which must be in a total amount sufficient to cover the interstate commission's annual budget as

623 approved each year. The aggregate annual assessment amount shall be allocated based upon a

624 formula determined by the interstate commission, which shall promulgate a rule that is binding

625 upon all member states.

626

627 (c) The interstate commission shall not incur obligations of any kind prior to securing the funds

628 adequate to meet that obligation; nor shall the interstate commission pledge the credit of any of

629 the member states, except by and with the authority of the member state.

630

631 (d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The

632 receipts and disbursements of the interstate commission shall be subject to the audit and

633 accounting procedures established under its by-laws. All receipts and disbursements of funds

634 handled by the interstate commission shall be audited yearly by a certified or licensed public

accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

Section 14. (a) Any state shall be eligible to become a member state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or the designees of non-member states shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of the compact by all states.

(c) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless it is enacted into law by unanimous consent of the member states.

Section 15. (a) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided, that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(b) Withdrawal from this compact shall be by the enactment of a statute repealing this compact, but shall not take effect until 1 year after the effective date of such statute.

658

659 (c) The withdrawing state shall immediately notify the chairperson of the interstate commission  
660 in writing upon the introduction of legislation repealing this compact in the withdrawing state.  
661 The interstate commission shall notify the other member states of the withdrawing state's intent  
662 to withdraw within 60 days of receiving notice.

663

664 (d) The withdrawing state shall be responsible for all assessments, obligations and liabilities  
665 incurred through the effective date of withdrawal, including the performance of obligations  
666 which extend beyond the effective date of the withdrawal.

667

668 (e) Reinstatement following withdrawal of a member state shall occur upon the withdrawing  
669 state reenacting the compact or upon such later date as determined by the interstate commission.

670

671 Section 16. (a) This compact shall dissolve upon the date of the withdrawal or default of the  
672 member state which reduces the membership in the compact to 1 member state.

673

674 (b) Upon the dissolution of this compact, the compact shall become null and void and shall be of  
675 no further force or effect. The business and affairs of the interstate commission shall be  
676 concluded and surplus funds shall be distributed in accordance with the by-laws.

677

678 Section 17. (a) This compact shall be severable and if any phrase, clause, sentence or provision is  
679 deemed unenforceable, the remaining provisions of the compact shall be enforceable.

680

(b) This compact shall be liberally construed to effectuate its purposes.

(c) Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

Section 18. (a) Nothing in this compact shall prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

(b) All member states' laws conflicting with this compact are superseded to the extent of the conflict.

Section 19. (a) All lawful actions of the interstate commission, including all rules and by-laws promulgated by the interstate commission, shall be binding upon the member states.

(b) All agreements between the interstate commission and the member states shall be binding in accordance with the terms of the agreement.

(c) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision of that member state.

SECTION 8. The third paragraph of section 26 of chapter 31 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following sentence:- No

704 appointing authority shall request military medical records for the purpose of employment other  
705 than that which is required by the administrator.

706  
707 SECTION 9. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended  
708 by striking out, in lines 765 to 767, inclusive, the words “; provided, however, that in no case  
709 shall the abatement amount exceed the sum of \$2,500 in any fiscal year following the fifth fiscal  
710 year of receipt of the abatement”.

711  
712 SECTION 10. Chapter 112 of the General Laws, as so appearing, is hereby amended by inserting  
713 after section 1A the following section:-

714  
715 Section 1B. (a) The director and each of the boards of registration and examination under the  
716 director’s supervision, shall upon presentation of satisfactory evidence by an applicant for  
717 certification or licensure, accept education, training or service completed by an individual as a  
718 member of the armed forces, as defined in clause Forty-third of section 7 of chapter 4, or the  
719 United States military reserves toward the qualifications required to receive the license or  
720 certification in question.

721  
722 (b) The commissioner of public health and each of the boards of registration and examination  
723 under the commissioner’s supervision, shall upon presentation of satisfactory evidence by an  
724 applicant for certification or licensure, accept education, training, or service completed by an  
725 individual as a member of the armed forces, as defined in clause Forty-third of section 7 of  
726 chapter 4, or the United States military reserves toward the qualifications required to receive the



license or certification in question.

(c) Notwithstanding any general or special law to the contrary, if a licensee or certificate holder, under this chapter, is engaged in active service in the armed forces of the United States, as defined in clause Forty-third of section 7 of chapter 4, the license or certification held by that licensee or certificate holder shall remain valid until the licensee or certificate holder is released from active duty and for a period of not less than 90 days following that release.

(d) Notwithstanding any general or special law to the contrary, the commissioner of public health and each of the boards of registration and examination under the supervision of the commissioner, shall upon presentation of satisfactory evidence by an applicant for certification or licensure, expedite the issuance of a license or certification to a person: (i) who is certified or licensed in a state other than the commonwealth, (ii) whose spouse is a member of the armed forces in the United States; (iii) whose spouse is a the subject of a military transfer to the commonwealth; and (iv) who left employment to accompany the person's spouse to the commonwealth. The procedure shall include, but not be limited to: (1) issuing the person a license or certificate if, in the opinion of the department, the requirements for licensure or certification of such other state are substantially equivalent to the requirements for licensure or certification in the commonwealth; or (2) issuing the person a temporary license or certificate to allow the person to perform services while completing any specific requirements that may be required in the commonwealth but were not required in the state in which the person was licensed or certified.

(e) Notwithstanding any general or special law to the contrary, the director and each of the boards of registration and examination under the supervision of the director, shall upon the presentation of satisfactory evidence by an applicant for certification or licensure, expedite the issuance of a license or certification for a person: (i) who is certified or licensed in a state other than the commonwealth; (ii) whose spouse is a member of the armed forces in the United States; (iii) whose spouse is the subject of a military transfer to the commonwealth; and (iv) who left employment to accompany a spouse to the commonwealth. The procedure shall include, but not be limited to: (1) issuing the person a license or certificate if, in the opinion of the department, the requirements for licensure or certification of such other state are substantially equivalent to the requirements for licensure or certification in the commonwealth; or (2) issuing the person a temporary license or certificate to allow the person to perform services while completing any specific requirements that may be required in the commonwealth but were not required in the state in which the person was licensed or certified.

SECTION 11. Section 2 of chapter 115 of the General Laws, as so appearing, is hereby amended by inserting after the word “commissioner”, in line 1, the following words:- shall be a veteran, as defined in clause Forty-third of section 7 of chapter 4 and.

SECTION 12. Section 71C of chapter 143 of the General Laws, as so appearing, is hereby amended by inserting after the word “licensee”, in line 45, the following words:- ; provided, however, that if the licensee is on active duty with the armed forces of the United States, the license shall remain valid until the licensee is released from active duty and for a period of not less than 90 days following that release.

773

774 SECTION 13. Section 62 of chapter 146 of the General Laws, as so appearing, is hereby  
775 amended by inserting after the word “certificate”, in line 26, the following words:- ; provided,  
776 however, that if the holder of a certificate of competency is on active duty with the armed forces  
777 of the United States, the certificate shall remain valid until the holder is released from active duty  
778 and for a period of not less than 90 days following that release.

779

780 SECTION 14. Section 67 of said chapter 146, as so appearing, is hereby amended by inserting,  
781 after the word “licensee”, in line 21, the following words:- ; provided, however, that if the  
782 licensee is on active duty with the armed forces of the United States, the license shall remain  
783 valid until the licensee is released from active duty and for a period of not less than 90 days  
784 following that release.

785

786 SECTION 15. Section 85 of said chapter 146, as so appearing, is hereby amended by inserting  
787 after the word “licensee”, in line 33, the following words:- ; provided, however, that if the  
788 licensee is on active duty with the armed forces of the United States, the license shall remain  
789 valid until the licensee is released from active duty and for a period of not less than 90 days  
790 following that release.

791

792 SECTION 16. Chapter 276A of the General Laws is hereby amended by adding the following 2  
793 sections:-

794

795 Section 10. A probation officer of a district court, in Boston, the municipal court of the city of

Boston or the officer's official designee, when gathering information in accordance with section 85 of chapter 276, shall, at or prior to arraignment of a defendant on a criminal complaint, use best efforts to confirm the defendant's status as a veteran, as defined in clause Forty-third of section 7 of chapter 4, a person on active service in the armed forces of the United States, as defined in said clause Forty-third of said section 7 of said chapter 4, or a person with a history of military service in the armed forces of the United States.

The district courts, and in Boston, the municipal court of the city of Boston, shall have jurisdiction to divert to a program any person who is a veteran, as defined in said clause Forty-third of said section 7 of said chapter 4, on active service in the armed forces of the United States, as defined in said clause Forty-third of said section 7 of said chapter 4, or who has history of military service in the armed forces of the United States who is charged with an offense against the commonwealth for which a term of imprisonment may be imposed, regardless of age, who has not previously been convicted of a violation of any law of the commonwealth or of any other state or of the United States in any criminal court proceeding after having reached the age of 18 years, except for traffic violations for which no term of imprisonment may have been imposed, who does not have any outstanding warrants, continuances, appeals or criminal cases pending before any courts of the commonwealth or any other state or of the United States and who has received a recommendation from a program that such person would, in light of the capacities of and guidelines governing it, benefit from participation in said program.

Section 11. A defendant who is determined to be a veteran, on active service or has a history of military service in the armed forces of the United States and who is eligible for diversion or

treatment under section 10 may, at arraignment, be afforded a 14-day continuance by the court to seek an assessment by the United States Department of Veterans Affairs, the department of veterans' services or another state or federal agency with suitable knowledge and experience of veterans affairs to provide the court with treatment options available to the defendant, including diversion programs, if appropriate. If the defendant has demonstrated symptomatology suggestive of a mental illness, a qualified psychiatrist, clinical psychologist or physician shall, in consultation with the United States Department of Veterans Affairs, the department of veterans' services or another federal or state agency, provide a written report to the court to assist in sentencing or diversion. The court may consider the recommendations of any diagnosing or treating licensed mental health professional for the defendant for pre-trial diversion or the imposition of a sentence. Prior to offering a continuance, the court shall inquire into the circumstances of the charge.

If the court offers a 14-day continuance to seek an assessment and a defendant chooses to accept the offer of a continuance, the defendant shall notify the court at arraignment. Upon receipt of such notification, the judge may grant a 14-day continuance. The court, through the probation office or the officer's official designee, shall direct the defendant to an assessment program, shall inform the program of the action and shall require that the program provide the probation department and court with its findings. A court may grant a defendant who is preliminarily determined not to be eligible for pre-trial diversion a 14-day continuance for assessment. The court shall consider the opinion of the commonwealth on the merits of granting or denying the continuance. A court may grant a continuance sua sponte or upon motion by the defendant.

SECTION 17. The executive office of health and human services, in consultation with the executive office for administration and finance, department of veterans' services, the Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke shall conduct a fiscal and operational analysis of the impact of designating a non-profit entity as a state soldiers home or assisted living facility. The analysis shall examine the availability of federal, state or private funds to support the construction and operation of additional soldiers' homes or assisted living facilities by the designated non-profit entity, including unused federal per diems under current United States Department of Veterans Affairs apportionment guidelines, provide a 5-year and 10-year master plan for capital facility improvements and expansion and estimate long-term costs that may be incurred by the commonwealth for the construction and ongoing maintenance of such a home or assisted living facility. The executive office of health and human services shall submit a copy of the analysis to the clerks of the house of representatives and senate who shall forward copies of the analysis to the house and senate committees on ways and means and the joint committee on veterans and federal affairs by December 1, 2012.

SECTION 18. There shall be a special commission to study and make recommendations under chapters 13 and 115 of the General Laws and titles 108 and 230 of the Code of Massachusetts Regulations, relative to the training and the certification, professional licensure or accreditation of veterans' benefits and services officers.

The commission shall consist of 6 members: the house and senate chairs of the joint committee on veterans and federal affairs or their designees, who shall serve as co-chairs; the secretary of veterans' services or a designee; the undersecretary of consumer affairs and business regulation

or a designee; the president of the Massachusetts Veterans' Service Officers Association or a designee; and the executive director of the Massachusetts Municipal Association or a designee.

The commission shall: (i) review and analyze processes and procedures of the department of veterans' services relative to the training or certification of veterans' benefits and services officers; (ii) review and analyze processes and procedures of the United States Department of Veterans Affairs relative to the training and accreditation of representatives of veterans and military service organizations; (iii) review and analyze processes and procedures for the establishment of professional licensure for veterans' benefits and services officers within the commonwealth; (iv) review and analyze the employment processes and procedures of cities and towns, veterans' services districts and the county of Dukes County with respect to veterans' benefits and services officers; (v) analyze and project costs associated with each of these items; and (vi) compile and issue a report of the study with recommendations for legislation relative to the training and the certification, professional licensure or accreditation of veterans' benefits and services officers.

The commission shall convene its first official meeting not later than August 1, 2012. The commission shall submit a copy of the study with recommendations for legislation to the clerks of the house of representatives and senate who shall forward copies of the study to the house and senate committees on ways and means and the joint committee on veterans and federal affairs by December 1, 2012.

As used in this section, the term "veterans' benefits and services officers" shall include: (i) full-

time and part-time veterans' agents under chapter 115 of the General Laws, chapter 471 of the acts of 1972, chapter 68 of the acts of 1984 and title 108 of the Code of Massachusetts Regulations; (ii) full-time directors of veterans' services districts and full-time and part-time deputy directors or assistant directors of veterans' services districts under said chapter 115 of the General Laws, said chapter 471 of the acts of 1972, said chapter 68 of the acts of 1984 and title 108 of the Code of Massachusetts Regulations; (iii) county veterans' agents under chapter 128 of the acts of 1982; and (iv) the veterans' benefits and services commissioner in and for the city of Boston under said chapter 115 of the General Laws.

SECTION 19. The court administrator shall, in consultation with the department of veterans services, conduct a study and make recommendations relative to the adoption of a court training program to educate and assist court personnel, including court staff, probation officers and their designees, court officers, prosecutors, defense counsel and judges in recognizing veterans issues and determining the appropriate treatment for veterans within the court. The administrative office of the trial court shall file a report with recommendations for a court training program to the joint committee on the judiciary, the joint committee on veterans and federal affairs and the house and senate committees on ways and means by June 1, 2013.

SECTION 20. The court administrator shall consult with the United States Department of Veterans Affairs and the department of veterans' services, to conduct a study to examine the intake and review process and disposition, including treatment and diversion options, of veterans, persons on active service in the armed forces of the United States and persons with a history of military service in the armed forces of the United States who face criminal complaints



in the courts. The study shall include specific information including, but not limited to, the number of defendants who are veterans, servicemembers or have a history of military service who enter the courts of the commonwealth each year, the number who are eligible to enter treatment and diversion programs, the number screened and assessed for placement in a program, the number that successfully complete a program, the number that do not complete a program and the reason for such incompleteness, the number that are diverted to a program and obtain a dismissal of their court proceedings and the number that enter and complete a program but reoffend and enter the criminal court system again within 1 year of successful completion. The study shall provide recommendations for annual reporting requirements to be provided by the administrative office of the trial court related to veterans in the criminal justice system. The report shall be provided by the court administrator to the department of veterans' services, the joint committee on veterans and federal affairs and the joint committee on the judiciary not later than April 1, 2013. Reporting shall be provided annually by the court administrator to the department and the committees on or before December 1 of each year thereafter.

SECTION 21. The council shall adopt all necessary rules, regulations and procedures to implement section 42 of chapter 15A of the General Laws not later than March 1, 2013.